



Reprinted  
February 25, 2014

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## ENGROSSED SENATE BILL No. 255

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DIGEST OF SB 255 (Updated February 24, 2014 5:54 pm - DI 107)

**Citations Affected:** IC 10-11; IC 16-18; IC 16-21; IC 34-30.

**Synopsis:** Implied consent for forensic examination. Repeals and relocates certain definitions relating to the provision of forensic medical examinations. Defines "sexual assault examination kit", and requires: (1) the state police department to develop and distribute a standard sexual assault examination kit; and (2) health care providers conducting forensic medical examinations of suspected victims of sex crimes to use the sexual assault examination kit if practicable. Provides that a health care provider may conduct a forensic medical examination of an unconscious person who is suspected to be the victim of a sex crime without the consent of the victim or other authorized individuals under certain circumstances. Provides the health care provider with immunity in conducting the examination. Provides that law enforcement shall obtain the sample from an examination kit immediately after receiving the provider's notification.

**Effective:** July 1, 2014.

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**Lanane, Miller Patricia,  
Charbonneau, Randolph**  
(HOUSE SPONSORS — CLERE, LAWSON L, AUSTIN)

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January 9, 2014, read first time and referred to Committee on Health and Provider Services.

January 30, 2014, amended, reported favorably — Do Pass.

February 3, 2014, read second time, amended, ordered engrossed.

February 4, 2014, engrossed. Read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 10, 2014, read first time and referred to Committee on Public Health.

February 20, 2014, reported — Do Pass.

February 24, 2014, read second time, amended, ordered engrossed.

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ES 255—LS 6841/DI 106





Reprinted  
February 25, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## ENGROSSED SENATE BILL No. 255

A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 10-11-2-33 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2014]: **Sec. 33. (a) The superintendent shall adopt guidelines to**  
4 **establish a standard medical forensic examination kit for victims**  
5 **of a sex crime.**

6       **(b) The superintendent shall distribute the standard medical**  
7 **forensic examination kits to hospitals and other health care**  
8 **providers who may provide forensic medical examinations to the**  
9 **victims of a sex crime. The superintendent may adopt guidelines to**  
10 **carry out this subsection.**

11       SECTION 2. IC 16-18-2-97, AS AMENDED BY P.L.3-2008,  
12 SECTION 104, IS AMENDED TO READ AS FOLLOWS  
13 [EFFECTIVE JULY 1, 2014]: Sec. 97. "Division" means the following:

- 14       (1) For purposes of IC 16-21-8, the meaning set forth in  
15 ~~IC 16-21-8-0.1.~~ **IC 16-21-8-0.2.**  
16       (2) For purposes of IC 16-22-8, the meaning set forth in

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IC 16-22-8-3.

(3) For purposes of IC 16-27, a group of individuals under the supervision of the director within the state department assigned the responsibility of implementing IC 16-27.

(4) For purposes of IC 16-28, a group of individuals under the supervision of the director within the state department assigned the responsibility of implementing IC 16-28.

(5) For purposes of IC 16-41-40, the division of family resources established by IC 12-13-1-1.

SECTION 3. IC 16-18-2-117.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 117.5. "Evidence", for purposes of IC 16-21-8, has the meaning set forth in IC 16-21-8-0.2.**

SECTION 4. IC 16-18-2-295, AS AMENDED BY P.L.141-2012, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 295. (a) "Provider", for purposes of IC 16-21-8, has the meaning set forth in ~~IC 16-21-8-0.5~~. **IC 16-21-8-0.2.**

(b) "Provider", for purposes of IC 16-38-5, IC 16-39 (except for IC 16-39-7), and IC 16-41-1 through IC 16-41-9, means any of the following:

(1) An individual (other than an individual who is an employee or a contractor of a hospital, a facility, or an agency described in subdivision (2) or (3)) who is licensed, registered, or certified as a health care professional, including the following:

- (A) A physician.
- (B) A psychotherapist.
- (C) A dentist.
- (D) A registered nurse.
- (E) A licensed practical nurse.
- (F) An optometrist.
- (G) A podiatrist.
- (H) A chiropractor.
- (I) A physical therapist.
- (J) A psychologist.
- (K) An audiologist.
- (L) A speech-language pathologist.
- (M) A dietitian.
- (N) An occupational therapist.
- (O) A respiratory therapist.
- (P) A pharmacist.
- (Q) A sexual assault nurse examiner.

(2) A hospital or facility licensed under IC 16-21-2 or IC 12-25 or



described in IC 12-24-1 or IC 12-29.

(3) A health facility licensed under IC 16-28-2.

(4) A home health agency licensed under IC 16-27-1.

(5) An employer of a certified emergency medical technician, a certified advanced emergency medical technician, or a licensed paramedic.

(6) The state department or a local health department or an employee, agent, designee, or contractor of the state department or local health department.

(c) "Provider", for purposes of IC 16-39-7-1, has the meaning set forth in IC 16-39-7-1(a).

(d) "Provider", for purposes of IC 16-48-1, has the meaning set forth in IC 16-48-1-3.

SECTION 5. IC 16-18-2-321.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 321.5. "Sample", for purposes of IC 16-21-8, has the meaning set forth in IC 16-21-8-0.2.**

SECTION 6. IC 16-18-2-326.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 326.5. "Secured storage", for purposes of IC 16-21-8, has the meaning set forth in IC 16-21-8-0.2.**

SECTION 7. IC 16-18-2-328.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 328.3. "Sexual assault examination kit", for purposes of IC 16-21-8, has the meaning set forth in IC 16-21-8-0.2.**

SECTION 8. IC 16-18-2-328.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 328.4. "Sexual assault nurse examiner", for purposes of IC 16-21-8, has the meaning set forth in IC 16-21-8-0.2.**

SECTION 9. IC 16-18-2-365.5 IS REPEALED [EFFECTIVE JULY 1, 2014]. **Sec. 365.5. "Victim", for purposes of IC 16-21-8, has the meaning set forth in IC 16-21-8-0.9.**

SECTION 10. IC 16-21-8-0.1 IS REPEALED [EFFECTIVE JULY 1, 2014]. **Sec. 0.1. As used in this chapter, "division" refers to the victim services division of the Indiana criminal justice institute established by IC 5-2-6-8(a).**

SECTION 11. IC 16-21-8-0.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 0.2. The following definitions apply throughout this chapter:**



(1) "Division" refers to the victim services division of the Indiana criminal justice institute established by IC 5-2-6-8(a).

(2) "Evidence" means the results collected from a forensic medical examination of a victim by a provider.

(3) "Provider" means a hospital or licensed medical services provider that provides forensic medical exams and additional forensic services to a victim.

(4) "Sample" means the result collected from a forensic medical examination of the victim by a provider, when the victim has not yet reported the sex crime to law enforcement.

(5) "Secured storage" means a method of storing a sample that will adequately safeguard the integrity and viability of the sample.

(6) "Sexual assault examination kit" means the standard medical forensic examination kit for victims of sexual assault developed by the state police department under IC 10-11-2-33.

(7) "Sexual assault nurse examiner" means a registered nurse who:

(A) has received training to provide comprehensive care to sexual assault survivors; and

(B) can:

(i) conduct a forensic medical examination; and

(ii) collect evidence from a sexual assault victim.

SECTION 12. IC 16-21-8-0.3 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 0.3: As used in this chapter, "evidence" means the results collected from a forensic medical exam of a victim by a provider when the victim has reported the sex crime to law enforcement.

SECTION 13. IC 16-21-8-0.5 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 0.5: As used in this chapter, "provider" means a hospital or licensed medical services provider that provides forensic medical exams and additional forensic services to a victim.

SECTION 14. IC 16-21-8-0.6 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 0.6: As used in this chapter, "sample" means the result collected from a forensic medical exam of the victim by a provider, when the victim has not yet reported the sex crime to law enforcement.

SECTION 15. IC 16-21-8-0.7 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 0.7: As used in this chapter, "secured storage" means a method of storing a sample that will adequately safeguard the integrity and viability of the sample.

SECTION 16. IC 16-21-8-0.8 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 0.8: As used in this chapter, "sexual assault nurse examiner" means a registered nurse who:



(1) has received training to provide comprehensive care to sexual assault survivors; and

(2) can:

(A) conduct a forensic medical examination; and

(B) collect evidence from a sexual assault victim.

SECTION 17. IC 16-21-8-0.9 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 0.9: As used in this chapter, "victim" means an alleged sex crime victim.

SECTION 18. IC 16-21-8-1, AS AMENDED BY P.L.214-2013, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1.(a) A hospital licensed under IC 16-21-2 that provides general medical and surgical hospital services shall provide forensic medical exams and additional forensic services to all alleged sex crime victims who apply for forensic medical exams and additional forensic services in relation to injuries or trauma resulting from the alleged sex crime. **To the extent practicable, the hospital shall use a sexual assault examination kit to conduct forensic exams and provide forensic services.** The provision of services may not be dependent on a victim's reporting to, or cooperating with, law enforcement.

(b) For the purposes of this chapter, the following crimes are considered sex crimes:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) (repealed).
- (3) Child molesting (IC 35-42-4-3).
- (4) Vicarious sexual gratification (IC 35-42-4-5).
- (5) Sexual battery (IC 35-42-4-8).
- (6) Sexual misconduct with a minor (IC 35-42-4-9).
- (7) Child solicitation (IC 35-42-4-6).
- (8) Child seduction (IC 35-42-4-7).
- (9) Incest (IC 35-46-1-3).

(c) Payment for services under this section shall be processed in accordance with rules adopted by the victim services division of the Indiana criminal justice institute.

SECTION 19. IC 16-21-8-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1.1. (a) **A provider may conduct a forensic medical examination without the consent of the person who is the subject of the examination, or the consent of another person authorized to give consent under IC 16-36-1-5, if the following conditions are met:**

- (1) The person:



- 1 (A) does not have the capacity to provide informed consent  
 2 under IC 16-36-1; and  
 3 (B) is, based on the medical opinion of the health care  
 4 provider, incapable of providing consent within the time  
 5 for evidence to be collected through a forensic medical  
 6 examination.
- 7 (2) The provider has a reasonable suspicion that the person  
 8 may be the victim of a sex crime.
- 9 (3) A person authorized to give consent under IC 16-36-1-5 is:  
 10 (A) not reasonably available; or  
 11 (B) the suspected perpetrator of the sex crime.
- 12 (b) A provider is immune from civil liability for conducting a  
 13 forensic medical examination without consent in accordance with  
 14 this section unless performance of the forensic medical  
 15 examination constitutes gross negligence or willful or wanton  
 16 misconduct.
- 17 SECTION 20. IC 16-21-8-10, AS ADDED BY P.L.41-2007,  
 18 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2014]: Sec. 10. (a) Law enforcement shall:  
 20 (1) obtain the sample ~~within forty-eight (48) hours~~ **immediately**  
 21 after receiving a provider's notification; and  
 22 (2) transport the sample to secured storage.
- 23 (b) Law enforcement shall keep the sample in secured storage until  
 24 the earlier of the following:  
 25 (1) At least one (1) year after the date the sample is placed in  
 26 secured storage.  
 27 (2) The victim reports the sex crime to law enforcement and the  
 28 sample is transported to the crime lab for investigation and use as  
 29 evidence.
- 30 (c) The division shall notify the victim, as described in subsection  
 31 (d), that the victim's sample will be removed from secured storage and  
 32 may be destroyed if the victim does not report the sex crime to law  
 33 enforcement on or before the date described in subsection (b)(1).
- 34 (d) The notice the division is required to provide a victim under  
 35 subsection (c) shall be sent:  
 36 (1) by first class mail to the individual's last known address;  
 37 (2) by electronic mail to the individual's last known electronic  
 38 mail address; and  
 39 (3) six (6) months and thirty (30) days before the date described  
 40 in subsection (b)(1).
- 41 (e) Each county shall develop and implement a plan for the secured  
 42 storage of samples.





(f) The director of the Indiana criminal justice institute may delay the implementation of this section until the earlier of the following:

(1) A date set by the director.

(2) The date funding becomes available by a grant through the criminal justice institute or by an appropriation from the general assembly.

If the director of the criminal justice institute delays implementation of this section, the director shall notify the prosecuting attorney of each county of the director's action and when funding becomes available to implement this section.

(g) The failure to comply with:

(1) this chapter;

(2) a plan adopted by a county; or

(3) a protocol adopted by a sexual assault response team;

does not, standing alone, affect the admissibility of a sample as evidence in a criminal or civil proceeding.

SECTION 21. IC 34-30-2-66.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 66.3. IC 16-21-8-1.1 (Concerning a provider conducting a forensic medical examination).**



## COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 255, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 6, line 2, after "(2)" insert "**The person is at least eighteen (18) years of age.**

**(3)".**

Page 6, line 4, delete "(3)" and insert "(4)".

Page 6, delete lines 7 through 9, begin a new paragraph and insert:

**"(b) A provider is immune from civil liability for conducting a forensic medical examination without consent in accordance with this section unless performance of the forensic medical examination constitutes gross negligence or willful or wanton misconduct.**

SECTION 20. IC 34-30-2-66.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 66.3. IC 16-21-8-1.1 (Concerning a provider conducting a forensic medical examination)."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 255 as introduced.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 10, Nays 0.



## SENATE MOTION

Madam President: I move that Senate Bill 255 be amended to read as follows:

Page 6, line 1, delete "person is unconscious." and insert "**person: (A) does not have the capacity to provide informed consent under IC 16-36-1; and**

**(B) is, based on the medical opinion of the health care provider, incapable of providing consent within the time for evidence to be collected through a forensic medical examination.**".

Page 6, delete line 2.

Page 6, line 3, delete "(3)" and insert "**(2)**".

Page 6, line 5, delete "(4)" and insert "**(3)**".

(Reference is to SB 255 as printed January 31, 2014.)

BREAUX

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 COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 255, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to SB 255 as printed February 4, 2014.)

Committee Vote: Yeas 9, Nays 0

Representative Clere



HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 255 be amended to read as follows:

Page 4, line 4, delete "provider after the victim" and insert **"provider."**

Page 4, delete line 5.

(Reference is to ESB 255 as printed February 21, 2014.)

CLERE

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 255 be amended to read as follows:

Page 6, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 20. IC 16-21-8-10, AS ADDED BY P.L.41-2007, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. (a) Law enforcement shall:

- (1) obtain the sample ~~within forty-eight (48) hours~~ **immediately** after receiving a provider's notification; and
- (2) transport the sample to secured storage.

(b) Law enforcement shall keep the sample in secured storage until the earlier of the following:

- (1) At least one (1) year after the date the sample is placed in secured storage.
- (2) The victim reports the sex crime to law enforcement and the sample is transported to the crime lab for investigation and use as evidence.

(c) The division shall notify the victim, as described in subsection (d), that the victim's sample will be removed from secured storage and may be destroyed if the victim does not report the sex crime to law enforcement on or before the date described in subsection (b)(1).

(d) The notice the division is required to provide a victim under subsection (c) shall be sent:

- (1) by first class mail to the individual's last known address;
- (2) by electronic mail to the individual's last known electronic mail address; and
- (3) six (6) months and thirty (30) days before the date described in subsection (b)(1).

(e) Each county shall develop and implement a plan for the secured



storage of samples.

(f) The director of the Indiana criminal justice institute may delay the implementation of this section until the earlier of the following:

- (1) A date set by the director.
- (2) The date funding becomes available by a grant through the criminal justice institute or by an appropriation from the general assembly.

If the director of the criminal justice institute delays implementation of this section, the director shall notify the prosecuting attorney of each county of the director's action and when funding becomes available to implement this section.

(g) The failure to comply with:

- (1) this chapter;
- (2) a plan adopted by a county; or
- (3) a protocol adopted by a sexual assault response team;

does not, standing alone, affect the admissibility of a sample as evidence in a criminal or civil proceeding."

Renumber all SECTIONS consecutively.

(Reference is to ESB 255 as printed February 21, 2014.)

BACON

